

REMARKS / DISCUSSION OF ISSUES

Claims 1-6 are pending in the application. Claim 1 is the independent claim.

Amendments to the Claims

The amendments to the claims, in all but one instance, are provided to replace European-style phraseology with phraseology more common in U.S. practice. The amendment to claim 1 to include 'compared to the basic cross-sectional area' is provided to ensure clarity of degree. No new matter is added.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 4, 6 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Eibergen, et al.* (WO 0139937). For at least the reasons set forth herein, Applicants respectfully submit that the rejection is improper and should be withdrawn.

At the outset, Applicants note that they have obtained a copy of US 6,671,961, which appears to be the US counterpart to the international application relied upon in the Office Action. Most remarks are based on this US patent. Applicants provide herewith an IDS citing this reference to ensure completeness.

Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24

USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

i. Claim 1

Claim 1 is drawn to a shaving head and features:

“...at least two blade-shaped cutting members...each cutting member being supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member, said supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member, said first portion having a basic cross-sectional area, seen perpendicularly to the longitudinal direction, and *said second portion having a reduced cross-sectional area compared to the basic cross-sectional area, wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.*

The Office Action states:

Eibergen teaches a shaving device having a grip, 3, and a shaving head, 1, which is releasably mounted to the grip, (pg. 5, lines 10-11), the shaving head comprising at least two blade-shaped cutting members, 5, each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by means of a supporting member supporting the respective cutting member in a supported area on the respective cutting member, the supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with the supported area remote from the cutting edge and a second portion in contact with the supported area near the cutting edge, the first portion having a basic cross sectional area, seen perpendicularly to the longitudinal direction, and the second portion having a reduced cross-sectional area characterized in that the second portion of the supporting member of each of the cutting member extends over at least half of the predetermined distance. Eibergen also teaches that the second portion is a toothed portion, (fig. 2). (The examiner notes that the supporting areas that extend from the sub frame, 9, are considered to be toothed, with each tooth supporting a section of a different blade, 5).

a. The Office Action Fails to Comply with MPEP § 706

This section of the MPEP states, inter alia:

The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. The examiner then reviews all the evidence, including arguments and evidence responsive to any rejection, before issuing the next Office action. (Emphasis provided.)

Applicants respectfully submit that with the exception of the citation of two lines and one drawing figure, the Office Action fails to clearly cite elements and features in the applied art that the Examiner regards as reading on the claims. For example, there is no clear articulation of the first and second portions or the area thereof as specifically recited in the claims. Respectfully, the rejection as presented places Applicants in the rather precarious position of having to surmise that which the Examiner regards as being taught in the applied art; and to render evidence of patentability based on assumptions and conjecture. Clearly, this is in marked conflict with the requirements of MPEP § 706.

For at least the reasons set forth above, Applicants submit that the rejection of claims 1, 2, 4 and 6 is improper and should be withdrawn. Applicants further submit that if after consideration of the present Response, the claims are rejected in a subsequent Office Action, that this Office Action should be non-final.

b. Eibergen, *et al.* fails to disclose at least one feature of claim 1

As noted previously, claim 1 features *the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.*

Applicants have reviewed the US 6,671,961 and have uncovered no disclosure of the noted feature of claim 1. Moreover, a key-word search does not reveal the disclosure of either the term 'area' or the term 'half'; and the only use of the term 'distance' is not germane to the noted feature of the claim. Accordingly, and for at least the reasons set forth above, Applicants submit the applied art fails to disclose at least one feature of claim 1. As such, rejection of claim 1 is improper and should be withdrawn. Therefore, claim 1 is patentable over the applied art. Additionally, claims 2-6, which depend from claim 1 directly or indirectly, are also patentable over the applied art for at least the same reasons.

Rejections under 35 U.S.C. § 103

The rejection of claims 3 and 5 has been considered. While Applicants do not concede the propriety of this rejection, because claims 3 and 5 depend from claim 1, these claims are patentable over the applied art for at least the same reasons as claim 1. Therefore, withdrawal of the rejection for obviousness is believed to be moot. Applicants reserve their right to address the rejections of claims 3 and 5 in further correspondence if necessary.

Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

/William S. Francos, Esq./

by: William S. Francos (Reg. No. 38,456)

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